

## REMARKS

### Amendment to the claims

A new dependent claim 14 was added to recite that *"said first well has a lower surface comprising a substantially flat portion"*. Applicants note that new claim 14 is supported by the application as filed, for example in figures 2, 3, 4c, 5d, 6d, 7 and 8 of the drawings.

No new matter has been added.

### Rejections under 35 U.S.C. 102

Claims 1 and 5 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,210,437 to Sawada. Applicants respectfully disagree.

#### Claim 1

Claim 1 stands rejected as being anticipated by Sawada, under the rationale that *"as the claims are currently written, it is inherent that the well 25 of Sawada would provide an electrical path regardless of any reasonable voltage applied to said circuit"*. The Examiner opines that it is not apparent why the structure of Sawada differs from the claimed structure *"because by reading the claimed limitations and also the applicant's figures (i.e. Figure 6d) it would appear that the Sawada invention and applicant's invention are structurally identical, and therefore, their electrical effects (i.e. provides an electrical path between said first*

*and second active regions regardless of any reasonable voltage applied to said circuit) also". The Applicants respectfully disagree.*

Substance of the Telephone Interview of November 29, 2007

The Applicants contacted the Examiner by telephone on November 29, 2007, in an attempt to understand the position of the Examiner and to eventually clarify any possible misunderstanding.

In substance, the Applicants exposed that Sawada discloses and claims transistors. A transistor is not permanently ON. A structure that is permanently ON does not operate as a transistor. Modifying the structure of Sawada so that it does not operate as a transistor would lead to a structure that cannot carry out the function of a transistor, claimed by Sawada.

The Examiner did not agree with the Applicants. The Applicants however understood that the Examiner seems to read claim 1 as if the sentence "*wherein said first well provides an electrical path between said first and second active regions regardless of any reasonable voltage applied to said circuit*" related to an effect of the features "*a first active region of a first conductivity type being disposed in said substrate; a second active region of a first conductivity type being disposed in said substrate; and a first well of said first conductivity type being disposed in said substrate under said gate region, said first well being in physical contact with said first active region and said second active region*". Following this rationale, the Examiner seems to opine that since Sawada discloses the features "*a first active region of a first conductivity type being disposed in said substrate; a second active region of a first conductivity type being disposed in said substrate; and a first well of said first conductivity type being disposed in said substrate under said gate region, said first well being in physical contact with said first active region and said second active region*", it must inherently have

the claimed effect of the first well providing “*an electrical path between said first and second active regions regardless of any reasonable voltage applied to said circuit*”.

The Applicants disagreed with the Examiner, because the rationale of the Examiner is technically inaccurate. For example, opining that any well having the same type as the active regions inherently provides an electrical path between the first and second active regions regardless of any reasonable voltage applied to the circuit equates to opining that the structure of Sawada cannot operate as a transistor (because the electrical path between the first and second active regions cannot be cut off), which is inaccurate and contrary to the teachings and claims of Sawada.

#### Declaration of Michael Yung

The Applicants enclose to the present response a Declaration pursuant to 37 CFR 1-132 by Dr. Michael Yung, a Specialist in Semiconductor Circuits. The Declaration of Dr Yung details that Sawada fails to teach at least two features recited in claim 1, contrary to the opinion of the Examiner.

Dr. Yung details that Sawada relates to a MOS transistor that would *prima facie* look like a MOS transistor to a reverse engineer, and which is not a "camouflaged circuit structure", contrary to the structure recited in claim 1.

Dr. Yung further details that the well of the transistor of Sawada “has a substantially semi-circular section” such that the electrical path between the source and drain regions of the transistor is cut off at a controlled threshold voltage, contrary to a well as recited in claim 1, which has no “substantially semi-circular section” and is such that the electrical path between the active regions of the recited structure is never cut off for any reasonable voltage.

The Examiner’s attention is directed to the declaration paragraphs 24-30. In paragraph 25, Dr. Yung reminds us that Sawada is directed to a MOS transistor. While

that may be a specific circuit structure, the structure of the present invention is not a generic form of any transistor; and a transistor is not a generic circuit structure. As the Examiner is aware, the claims of the present invention are drawn to circuit structure *"wherein said first well provides an electrical path between said first and second active regions regardless of any reasonable voltage applied to said circuit"*. The two structures taken as a whole are fundamentally different and distinct although superficially similar. MPEP 2131.05 reminds us that a reference is anticipatory if it explicitly or inherently discloses every limitation recited in the claims. As applied to claim 1, Sawada does not disclose two essential limitations either explicitly or inherently: a *camouflaged circuit structure* and *"an electrical path ... regardless of any reasonable voltage applied"*. Given the structure of Sawada, one cannot provide an electrical path present for any reasonable voltage; there exists a voltage that will cause the structure of Sawada to function as a transistor. Similarly, regardless of the voltages applied to the structure of the present invention, no transistor will result. The applicants respectfully ask the Examiner: where does Sawada present, either explicitly or inherently, a *camouflaged circuit structure* with an *"electrical path between said first and second active regions regardless of any reasonable voltage applied"*?

#### Further considerations

The Applicants respectfully submit that at least because, as emphasized in the Declaration of Dr. Yung, Sawada does not disclose or suggest at least two features recited in claim 1, claim 1 is patentable in view of Sawada.

#### Claim 5

Claim 5 depends on claim 1. Applicants respectfully submit that at least in view of its dependency on claim 1, claim 5 is patentable over Sawada.

Rejections under 35 U.S.C. 103

Claims 2, 3 and 4 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Sawada in view of U.S. Pat. No. 3,938,620 to Spadea. The Applicants respectfully disagree.

Claims 2, 3 and 4

Claims 2, 3 and 4 depend directly or indirectly on claim 1. Applicants note that the Examiner has failed to show that Spadea shows a structure as recited in claim 1, and in particular *"wherein said first well provides an electrical path between said first and second active regions regardless of any reasonable voltage applied to said circuit"*. In view of the above, Applicants submit that the Examiner has failed to show that Sawada or Spadea, alone or in combination, would have led one of ordinary skill to a structure as recited in claim 1, and in particular *"wherein said first well provides an electrical path between said first and second active regions regardless of any reasonable voltage applied to said circuit"*. Accordingly, Applicants respectfully submit that claim 1 is patentable over Sawada in view of Spadea, and respectfully submit that at least in view of their dependency on claim 1, claims 2, 3 and 4 are patentable over Sawada in view of Spadea.

New claim

New claim 14 depends on claim 1. The Applicants respectfully submit that at least in view of its dependency on claim 1, claim 14 is patentable over the prior art. Further, the Applicants note that claim 14 recites that *"said first well has a lower surface*

*comprising a substantially flat portion*". The Applicants note that Sawada specifically teaches using a well having a semi-circular cross section, which teaches away from a well having "*a lower surface comprising a substantially flat portion*", contrary to claim 14. The Applicants respectfully submit that at least for this reason also, claim 14 is patentable over Sawada or any combination of Sawada and another prior art reference.

Allowable subject matter

The Applicants acknowledge with gratitude the allowance of claim 6.

\* \* \*

In view of the above, Applicants submit that the application is now in condition for allowance and respectfully urge the Examiner to pass this case to issue.

The Commissioner is authorized to charge any additional fees that may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this correspondence is being electronically filed by E-Web in the United States Patent and Trademark Office on

Respectfully submitted,

March 21, 2008

(Date of Transmission)

Krista Celentano

(Name of Person Transmitting)

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March 21, 2008

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Attachments Declaration pursuant to 37 CFR 1-132